

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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IN RE BRISTOL-MYERS SQUIBB CO. :  
CVR SECURITIES LITIGATION :  
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Case No. 1:21-cv-08255 (JMF)

ORAL ARGUMENT REQUESTED

**NOTICE OF DEFENDANTS' MOTION TO DISMISS  
THE SECOND AMENDED COMPLAINT**

PLEASE TAKE NOTICE that, pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, defendants Bristol-Myers Squibb Company, Giovanni Caforio, M.D., and Samit Hirawat, M.D., by their undersigned counsel, will and hereby do move, at the United States District Court for the Southern District of New York, Room 1105, 40 Foley Square, New York, New York 10007, at such date and time as the Court directs, for an order dismissing all claims asserted in the second amended complaint dated April 14, 2023 [ECF No. 115], and granting the defendants such other and further relief as the Court may deem just and proper.<sup>1</sup> The deadlines for further submissions in connection with this motion are set forth in an order previously entered by the Court on March 9, 2023 [ECF No. 112].

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<sup>1</sup> Plaintiffs have confirmed (1) that the second amended complaint repleads solely for purposes of appeal the claims under the Securities Act of 1933, the claims under Exchange Act § 14(a), and the claims under Exchange Act § 20(a) to the extent based on alleged § 14(a) violations, and (2) that no claims that have not already been dismissed with prejudice are being asserted against defendants Peter J. Arduini, Charles Bancroft, Robert Bertolini, Matthew W. Emmens, Michael Grobstein, Alan J. Lacy, Dinesh C. Paliwal, Theodore R. Samuels, Karen M. Santiago, Vicki L. Sato, Gerald L. Storch, or Karen H. Vousden. The second amended complaint abandons any claim against David V. Elkins. To the extent plaintiffs contend otherwise, all of these former defendants join in this motion on the ground that the claims previously asserted against them in this action have been dismissed.

In support of their motion, defendants rely upon the second amended complaint; the accompanying memorandum of law; the declaration of John J. Clarke, Jr. dated May 12, 2023, including the exhibits thereto; the further filings made with respect to the motion; and such other proceedings in this action as shall bear on the matters addressed in the motion that may be considered by the Court.

Dated: New York, New York  
May 12, 2023

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